

1984 WL 250019 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 11, 1984

*1 William Duke Kight
Superintendent
Williston School District
Post Office Drawer 508
Williston, South Carolina 29853

Dear Mr. Kight:

By your letter of November 12, 1984, you have asked whether a dual office holding problem or other conflict of interest would arise if an individual, as chairman of one of the three boards of trustees of Barnwell County's school districts were to also serve on the Barnwell County Vocational Education School Board. For the reason following, there is no dual office holding problem; however, the individual in question would need to consider conflict of interest problems as such problems may arise on a case-by-case basis.

[Article XVII, § 1A of the South Carolina Constitution](#) provides that ‘ . . . no person shall hold two offices of honor or profit at the same time.’ For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. [State v. Crenshaw](#), 274 S.C. 475, 266 S.E.2d 61 (1980).

This Office has advised on numerous occasions that a member of a school board of trustees would hold an office for dual office holding purposes. See Ops. Atty. Gen. dated May 4, 1982; March 16, 1982; and August 5, 1981, for examples. Furthermore, by an opinion dated October 25, 1984, this Office concluded that a member of the Vocational Education School Board of Barnwell County would hold an office for dual office holding purposes; a copy of that opinion is enclosed. The situation presented by you must be further analyzed in light of applicable statutes, however.

Act No. 712, 1978 Acts and Joint Resolutions, amending Act No. 501 of 1971, provides for the composition of the Barnwell County Vocational Education School Board, as follows:

There is hereby created the Barnwell County Vocational Education School Board to be composed of eight members. Two members shall be residents of Williston School District No. 29, one shall be a resident of Blackville School District No. 19 and one member shall be a resident of the county at large. The other three members shall be the chairmen of the boards of trustees of the three school districts. The members, except the chairmen of the boards of trustees, shall be appointed by the county board of commissioners to serve terms of three years. Provided, that of the initial appointments, which shall be made by the county legislative delegation, two shall be appointed to serve for two years and two for one year. The fifth member shall serve for three years.

You have advised that the individual in question is chairman of the board of trustees of one of the three school districts. He therefore serves on the Vocational Education School Board by virtue of his chairmanship, or *ex officio*, and dual office holding would not be a problem. See Opinion of retired Attorney General McLeod dated April 22, 1980, enclosed.

*2 You also inquired about the individual who is a member of the Vocational Education School Board and who has been elected to Barnwell City Council. That situation has been addressed in the opinion dated October 25, 1984.

I trust that this information will satisfactorily respond to your inquiry. Please advise me if we may provide additional information or assistance.

Sincerely,

Patricia D. Petway
Assistant Attorney General

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